

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

PHI THETA KAPPA HONOR SOCIETY,

Plaintiff/ Counter-Defendant,

v.

CAUSE NO. 3:22-CV-208-CWR-RPM

HONORSOCIETY.ORG, INC., ET AL.,

Defendants/ Counter-Plaintiffs,

v.

DR. LYNN TINCHER-LADNER,

Third-Party Defendant.

ORDER

Before the Court are plaintiff Phi Theta Kappa Honor Society's ("PTK") *Motions to Seal*. Docket Nos. 252 and 276.

PTK first seeks to seal Exhibit 1 to Dr. Tinchler-Ladner's Declaration in Support of its Opposition to Honor Society's *Motion to Stay the Preliminary Injunction Pending Appeal*. Docket No. 252. PTK says it designated Exhibit 1 as "HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY pursuant to the operative Protective Order" and has filed a redacted version as a placeholder. *Id.* at 2. It submits that Exhibit 1 contains "information PTK prepares on a monthly basis reporting its new member totals, new member goals, and monthly member forecasting." *Id.*

PTK also seeks leave to file under seal pages 47-63 of Michael Moradian's May 3, 2024, deposition transcript, which was "attached as part of Exhibit A-3 to the Declaration of

Jonathan Polak (“Polak Declaration”), and approximately three lines of text in the Polak Declaration referring to the same.” Docket No. 276. Redacted versions of these documents were submitted in support of PTK’s *Motion for Sanctions/Attorney’s Fees*. “PTK does not believe pages 47–63 of Exhibit A-3 contain information that must be withheld from the public record but submits [the *Motion to Seal*] out an abundance of caution because it was unable to obtain Honor Society’s consent before filing.” *Id.*

Federal law in this area is well-established. “Judicial records are public records. And public records, by definition, presume public access.” *Binh Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410, 416 (5th Cir. 2021). “The public has a common law right to inspect and copy judicial records.” *Bradley on behalf of AJW v. Ackal*, 954 F.3d 216, 224 (5th Cir. 2020) (quotation marks and citation omitted). “This right promotes the trustworthiness of the judicial process, curbs judicial abuses, and provides the public with a better understanding of the judicial process, including its fairness, and serves as a check on the integrity of the system.” *Id.* (cleaned up).

The public’s right of access, however, “is not absolute.” *Id.* at 225. “In exercising its discretion to seal judicial records, the court must balance the public’s common law right of access against the interests favoring nondisclosure.” *S.E.C. v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993) (collecting cases). “[T]he relevant facts and circumstances of the particular case” must be considered. *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 599 (1978) (citation omitted).

Despite the existence of a Stipulated Protective Order, federal law does not permit parties to seal documents by agreement. *See Binh Hoa Le*, 990 F.3d at 417. Judges must independently examine whether sealing a document or case comports with the First Amendment and common-law standards of public access to public records. *Id.*

Here, PTK has not offered compelling reasons in support of sealing its filings. It claims Exhibit 1 contains confidential information important to protecting its competitive advantage in the marketplace, yet the redacted information discloses only PTK's membership overview and forecasted membership totals. Docket No. 250-2. As for Exhibit A-3, an abundance of caution is not enough to overcome the default standard favoring the public's right of access.

Accordingly, the motions are denied. Within three days of this Order, PTK shall file publicly the document presently located at Docket No. 250-2, pages 47-63 of Moradian's deposition transcript, and the text in the Polak Declaration referring to the same.

SO ORDERED, this the 23rd day of December, 2024.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE